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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/14/2005

Takashi Ihara

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5505

24978 7590 12/10/2008

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EXAMINER

NGUYEN, DUC M

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

12/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Amendment

Election/Restrictions

1. Newly submitted claims 25-38 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 1-24 direct to an internal tuning circuit of an antenna, classified in class 455, subclasses 150.1, 193.1-193.3.

Claims 25-38 direct to an external control circuit for wirelessly controlling the tuning circuit of an antenna, classified in class 455/418, 419, 420, 41.1.

Inventions I (claims 1-24) and II (claims 25-38) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as a plurality of capacitors comprising fixed or variable capacitances which are switched in or out of the tuning circuit by a plurality of switches. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to

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provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention (claims 1-24), this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 25-38 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on 9/5/08 canceling all claims drawn to the elected invention (claims 1-24) and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because they direct to a non-elected invention (claims 25-38).

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the

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omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

2. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571) 273-8300 (for **formal** communications intended for entry)

(571)-273-7893 (for informal or **draft** communications).

Hand-delivered responses should be brought to Customer Service Window,
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

Any inquiry concerning this communication or communications from the examiner should be directed to Duc M. Nguyen whose telephone number is (571) 272-7893, Monday-Thursday (9:00 AM - 5:00 PM).

Or to Nay Maung (Supervisor) whose telephone number is (571) 272-7882.

/Duc M. Nguyen/

Primary Examiner, Art Unit 2618

Dec 8, 2008